



CONSERVATION COMMISSION

PUBLIC MEETING

2 Bathing Beach Road
Nantucket, Massachusetts 02554

www.nantucket-ma.gov

Wednesday, April 6, 2016 4:00 P.M.
4 Fairgrounds Road, Training Room

Commissioners: Ernie Steinauer (Chair), Andrew Bennett (Vice Chair), Ashley Erisman, David LaFleur, Ben Champoux, Ian Golding, Joe Topham

Called to order at 4:00 p.m.

Staff in attendance: Jeff Carlson, Natural Resources Coordinator
Attending Members: Golding (acting chair), Erisman, LaFleur, Champoux, Topham
Absent Members: Steinauer, Bennett
Late Arrivals: None
Earlier Departure: None
Agenda adopted by unanimous consent

*Matter has not been heard

I. PUBLIC MEETING

A. Public Comment – None

II. PUBLIC HEARING

A. Notice of Intent

1. Edwin Snider RT – 1 Brock's Court (42.3.4-84) SE48-2834 **Cont (04/20/2016)**
2. Edwin Snider RT – 1 Brock's Court (42.3.4-84) SE48-2835 **Cont (04/20/2016)**
3. Zarella – 125 Wauwinet Road (12-8) SE48- 2856 **Cont (04/20/2016)**
4. Zarella – 129 Wauwinet Road (12-4) SE48- 2857 **Cont (04/20/2016)**
5. Nantucket Island Land Bank – 46 & 48 South Cambridge Street (59.3-41 & 42) SE48-2871

Sitting Erisman, LaFleur, Champoux, Golding, Topham

Recused None

Documentation Site plans, topographical maps, photos, MNH sign off letter, departmental reports, and correspondence.

Representative **Paul Santos**, Nantucket Surveyors – This was continued for word from Division of Fisheries and Wildlife; that came back with no adverse impact under the Wetlands Protection Act.

Public (unidentified speaker) – Posed a question about the level of heavy equipment traffic on South Cambridge Street. Concern among the abutters is that the road would be returned to its pre-work condition.

Victoria Girvan – Asked if the structure will be offered for move off.

Bruce Mandell, 10 Midland Avenue – Asked the commission consider making a condition of the approval that the portion of South Cambridge Street and Midland Avenue within ConCom jurisdiction and if the Land Bank uses any of the road, that the road be returned to the condition it was prior to the construction.

Discussion **Golding** – There had been mention of what native plants were going in.

Santos – He doesn't recall that but there was talk about ensuring any loam that came in would be clean.

Champoux – Asked about the likelihood that brush would have to be cut in order to move the structure.

Santos – He does not believe so; most likely the structure will be razed. It has to be offered before it can be demolished. He can take before and after photos; doesn't want his client to end up being responsible for repair to a road that they didn't use.

Golding – Noted that ConCom jurisdiction is only within the 100 feet buffer.

Staff It can be conditioned that the road would be returned to its previous condition. Have everything needed to close.

Motion **Motion to Close.** (made by: LaFleur) (seconded by: Topham)

Vote Carried unanimously

6. Great State Properties, LLC – 92 Washington Street (42.2.3-22) SE48-2870 **Cont (04/20/2016)**

7. *The Kaplan Family NT – 8 Harbor View Way (42.4.1-28) SE48-2873

Sitting Erisman, LaFleur, Champoux, Golding, Topham
 Recused None
 Documentation Site plans, topographical maps, photos, MNH sign off letter, departmental reports, and correspondence.
 Representative **Paul Santos**, Nantucket Surveyors – The property is completely with land subject to coastal storm flowage, the only resource area applicable. The work to raise the existing dwelling to come into compliance with Flood Insurance regulation; it will be raised to elevation 9.5 feet with no change to grading. Only the dwelling will be raised, the other structure is a garage. The new foundation will be designed in accordance with FEMA regulations.
 Public None
 Discussion None
 Staff Have everything needed to close.
 Motion **Motion to Close.** (made by: Topham) (seconded by: LaFleur)
 Vote Carried unanimously

8. *Pocomo Neighbours – 47,53,55,57,61,63 & 69 Pocomo Road (Multiple) SE48-2874 **Cont (04/20/2016)**

9. *Savel Nominee Trust– 47 Pocomo Road (15-19) SE48-2872

Sitting Erisman, LaFleur, Champoux, Golding, Topham
 Recused None
 Documentation Site plans, topographical maps, photos, MNH sign off letter, departmental reports, and correspondence.
 Representative **David Haines**, LEC Environmental – Waiting for MNH, so will have to continue. NOI is to relocate and reconstruct a boardwalk and beach stairs. The new section of boardwalk will run perpendicular to the bank. Explained construction of the boardwalk and stairs. The vegetation is mostly beach grass. They are prepared to replant if that is necessary, but they are sure it will grow back naturally.
 Public None
 Discussion **Champoux** – Agrees with Mr. Haines that the grass will probably grow back, but suggested a photo-monitoring condition to determine whether or not additional plantings are required.
 Staff None
 Motion Continued to April 20 without objection.
 Vote N/A

10. *Nantucket Island Land Bank – Off North Gully Road (73.1.3-122) SE48-2875

Sitting Erisman, LaFleur, Champoux, Golding, Topham
 Recused None
 Documentation Site plans, topographical maps, photos, MNH sign off letter, departmental reports, and correspondence.
 Representative **Rachel Freeman**, Nantucket Islands Land Bank – NOI is to replace a set of stairs that are on an abutter's property to be maintained by the Land Bank by agreement for public access. Looking to putting a jog in the stairs with an 8" rise, 12" run and 36" width with three 48" landings; currently the stairs go straight down.
 Public None
 Discussion **Golding** – Asked how the Land Bank will draw attention to the fact the stairs are for public use. Discussion about ways that might be accomplished.
Erisman – Asked if anything large has to be removed for this work.
Freeman – No.
 Staff Have everything needed to close.
 Motion **Motion to Close and Issue.** (made by: Champoux) (seconded by: Topham)
 Vote Carried unanimously

B. Amended Orders of Conditions

1. *Five and Nine Medouie Creek RT – 5 & 9 Medouie Creek Road (20-5 & 4) SE48-2587

Sitting Erisman, LaFleur, Champoux, Golding, Topham
 Recused None
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
 Representative **Don Bracken**, Bracken Engineering, Inc. – Asked that this be continued; he noticed that the abutter notification will have to be corrected.
 Public None
 Discussion None
 Staff None
 Motion Continued to April 20 without objection.
 Vote N/A

2. *Goose Cove LLC – 7 South Cambridge Street (59.4-132) SE48-2680

Sitting	Erisman, LaFleur, Champoux, Golding, Topham
Recused	None
Documentation	Site and topographical plans, photos, requisite departmental reports and correspondence.
Representative	Don Bracken , Bracken Engineering, Inc. – There are three changes; the first is to add a pervious parking area off the driveway between the house and wetland buffer; it is between the 25- and 50-foot buffers in existing lawn area. The next change is to remove and revegetate a portion of the driveway on an abutting lot that is within the 100-foot buffer. The last change is the configuration of the lot; explained that change to include the septic within the property lines. Nothing is proposed with the 25-foot buffer.
Public	None
Discussion	None
Staff	Have everything needed to close.
Motion	Motion to Close and Issue. (made by: Champoux) (seconded by: LaFleur)
Vote	Carried unanimously

III. PUBLIC MEETING**A. Request for Determination of Applicability**

1. * Paul C. Shepard et al – 41 Nonantum Avenue (87-41)

Sitting	Erisman, LaFleur, Champoux, Golding, Topham
Recused	None
Documentation	Site plans, topographical maps, photos, MNH sign off letter, departmental reports, and correspondence.
Representative	Arthur D. Gasbarro , Nantucket Engineering & Survey – For residential development within the 100-foot buffer to a coastal bank. Does not require waivers. Propose a silt fence outside the 25-foot buffer. Construction will be outside the 50-foot buffer; the septic will be outside ConCom jurisdiction.
Public	None
Discussion	Erisman – Expressed concern about allowing the work within the boundary. Gasbarro – Noted that he did not prepare the application; he's standing in for Jeff Blackwell and that it was probably an oversight. Suggested it might be difficult to propose this project without confirming the boundary. If we're setting the buffer zones, we need to confirm the top-of-bank boundary.
Staff	Recommend Negative 3 to allow the work. Could refuse the boundary and ask it be confirmed. Can add Positive 2A.
Motion	Motion to Approve as recommended. (made by: Topham) (seconded by: Champoux)
Vote	Carried unanimously

B. Minor Modifications

1. Cliff ACK Realty Trust – 96 Cliff Road (41-15) SE48-2066

Sitting	Erisman, LaFleur, Champoux, Golding, Topham
Recused	None
Documentation	Site and topographical plans, photos, requisite departmental reports and correspondence.
Representative	Paul Santos , Nantucket Surveyors – This is to incorporate a detailed landscape plan into the record. There is a tree outside the 20-foot no-touch zone of the bordering vegetative wetland and outside the 50-foot no-touch zone of a vernal pool. Would like to remove the tree because the canopy is very large and against the back side of the structure. The original order was silent about that and want to validate the removal. If there is a requirement that a more significant tree be maintained on the back side of the house, that condition could be met; there is low growth proposed on the back side. Noted the tree has a 4-foot base.
Public	None
Discussion	Champoux – It looks like a Chinese elm tree. Erisman – Canopy trees provide habitat. Removing a tree with that canopy will also affect water infiltration. Champoux – Asked Mr. Santos if he would be willing to plant an in-kind tree on the property. Santos – Yes. Reiterated that the problem is the canopy goes up into the structure. Champoux – Explained what a quantitative analysis of a tree would review to provide a baseline value of the tree. That analysis might indicate the one tree must be replaced by 3 smaller trees. If the tree is a Silver maple, it could prove dangerous; in that case the applicant would want to get rid of it and wouldn't have the value of a Red maple or oak. Suggested a need for more information on the tree. Golding – Asked if the house could be moved closer to the road away from the tree, since the tree is too large to move. Santos – The septic is in the front and moving it forward would put it in the zoning setback. Erisman – Expressed concern that once the canopy is removed, the lights on the back of the house would light up the vernal pool and impact that habitat. Santos – Asked for a continuance in order to confirm the type of tree and propose an in-kind replacement.
Staff	The tree is big enough that, if you're doing a wetland tap in the area, it may have been within the sample site for the 30-foot tree. Suggested the tree might be a Silver maple. Need to confirm what it is; that would determine what would replace it in order to provide similar habitat.
Motion	Continued to April 20 without objection.
Vote	N/A

2. Collis – 5 Galen Avenue (29-122) SE48-2815

Sitting Erisman, LaFleur, Champoux, Golding, Topham
 Recused None
 Documentation Site plans, topographical maps, photos, MNH sign off letter, departmental reports, and correspondence.
 Representative **Arthur D. Gasbarro**, Nantucket Engineering & Survey – Asked this be held two weeks to revise the plans for a change requested by the owner.
 Public None
 Discussion None
 Staff None
 Motion Continued to April 20 without objection.
 Vote N/A

C. Certificates of Compliance

1. Raab – 8 Second Way (55-664)SE48-1666

Sitting Erisman, LaFleur, Champoux, Golding, Topham
 Staff For construction of a single-family dwelling backing onto wetlands; it has been built in compliance. This house prompted the 2-foot separation from groundwater rule and waivers for that. There have been continuing problems with flooded basements since. No on-going conditions.
 Discussion None
 Motion **Motion to Issue.** (made by: Champoux) (seconded by: Topham)
 Vote Carried unanimously

D. Orders of Condition

1. Nantucket Island Land Bank – 46 & 48 South Cambridge Street (59.3-41 & 42) SE48-2871

Sitting Erisman, LaFleur, Champoux, Golding, Topham
 Staff On Condition 20, he has to add the loam is to be clean of any invasive species. He will add Condition 21: any disturbance to the roadway is to be repaired or restored. He will add Condition 22: any invasive species found in the disturbed area is to be removed.
 Discussion None
 Motion **Motion to Approve as amended.** (made by: Champoux) (seconded by: LaFleur)
 Vote Carried unanimously

2. The Kaplan Family NT – 8 Harbor View Way (42.4.1-28) SE48-2873

Sitting Erisman, LaFleur, Champoux, Golding, Topham
 Staff Pretty straight forward.
 Discussion None
 Motion **Motion to Approve as drafted.** (made by: Topham) (seconded by: Champoux)
 Vote Carried unanimously

3. Nantucket Island Land Bank – Off North Gully Road (73.1.3-122) SE48-2875

Sitting Erisman, LaFleur, Champoux, Golding, Topham
 Staff Also straight forward.
 Discussion None
 Motion **Motion to Approve as drafted.** (made by: LaFleur) (seconded by: Champoux)
 Vote Carried unanimously

E. Other Business

1. Approval of Minutes – 03/23/2016: **Motion to Approve.** (made by: Champoux) (seconded by: Erisman) Carried unanimously
2. Reports:
 - a. CPC, Golding – Nothing to report.
 - b. Mosquito Control Committee, Erisman – First meeting is scheduled for Thursday, April 7.
3. Commissioners Comment:
 - a. Champoux – The invasive species class went well.
 - b. Erisman – Asked when the board can expect to receive data from the Polpis Harbor dredging project; there is some major algae from nutrients going into the harbor there. Staff – Stated he met with the Conservation Foundation to discuss any contribution of the Windswept Bogs to the harbor. Testing has been done last year; it shows the nitrogen coming from the bogs to be pretty substantial. The Conservation Foundation is doing further testing to ascertain whether it is coming from wetlands or the cranberry bogs. He asked them to reduce the flow and revise their testing procedures to accomplish a complete nitrogen sweep.

4. Administrator/Staff Reports

- a. Suggested ConCom do what other boards do; in the event of a restoration project, a contract between the property owner and the restorationist be in the file showing commitment by the company for the duration of the project. Discussion about putting an escrow in place for each project to ensure the restoration work is completed.
- b. Joanne Cuppone has been pulling every project since 2013 and reviewing for absent monitoring reports. Have been able to contact some representatives and owners about absent reports and inform them that if the reports are not turned in, they will be subject to enforcement. The goal is to have everyone back into compliance by June 1, 2016. Once the past three years are caught up, they will work their way back further. Found some project that have received Certificates of Compliance with on-going conditions. Estimated they found about 100 projects missing reports.

Motion to Adjourn: 5:12 p.m.

Submitted by:

Terry L. Norton